

### **REMARKS**

Claims 1-13 and 20-23 are pending. Claims 1 and 20 have been amended and claims 14-19, and 25 are cancelled with this response. The applicants note with appreciation the indication that previously presented claims 2-3, 9-11, 12-13, and 17 contain allowable subject matter. Reconsideration of the application is respectfully requested based on the following remarks.

#### **I. REJECTION OF CLAIMS 1-13, AND 14-25 UNDER 35 U.S.C. § 101**

Claims 1-13 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Withdrawal of the rejection is respectfully requested for at least the following reasons.

Claims 1-13 were rejected under 35 U.S.C. § 101 as directed to software *per se*. Claim 1 has been amended to recite a computer readable medium, which is believed to be statutory subject matter. Thus, withdrawal of the § 101 rejection as to claim 1 is respectfully requested.

Claims 14-25 were rejected under 35 U.S.C. § 101 as directed to method claims that recite purely mental steps. As to claims 14-19 and 24-25, these claims have been cancelled rendering this rejection moot. As to claims 20-23, the method of claim 20 has been amended to specify that it relates to a host computer system. Thus, the method of claims 20-23 is now tied to a product as requested by the Examiner, and withdrawal of the § 101 rejection is respectfully requested.

#### **II. REJECTION OF CLAIMS 1-19 UNDER 35 U.S.C. § 112**

Claims 1-13 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection is respectfully requested for at least the following reasons.

Claim 1 has been amended to clearly articulate the relationship between the operating system, operating system dependent module, operating system independent module, a network device independent module, network device dependent module, and the network device.

In light of the current amendment, withdrawal of the rejection is respectfully requested for claim 1 and depending claims thereof.

### **III. CLAIM OBJECTIONS**

Previously presented claim 25 was objected to because it depended on cancelled claim 24. Claim 25 has been cancelled with this response, thereby rendering this objection moot.

### **IV. REJECTION OF CLAIMS 1-13 UNDER 35 U.S.C. § 103(a)**

Claims 1, 4, and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,032,227 B2 (Wilkinson) in view of U.S. Patent No. 5,684,962 A (Black) in view of U.S. Patent No. 6,775,832 B1 (Lin), and in view of U.S. Patent No. 6,233,619 B1 (Narisi). Withdrawal of the rejection is respectfully requested for at least the following reasons.

***i. The cited art does not teach a network device independent module, as recited in claim 1.***

Claim 1 provides a layered network device driver system that interfaces with a computing system comprising an operating system, an operating system dependent module, an operating system independent module, a network device independent module, and a network device dependent module. As will be further appreciated from the following discussion, the combination of cited prior art does not teach all features of claim 1, as amended.

In the pending Office Action mailed on 3/19/2009 (pending O.A.), the Examiner alleges that Wilkinson teaches "a network [device] independent module ( driver [sic]

drivers, col 5, ln 60-65), that places the transmit data, and obtains the received data...” Pending O.A., p. 4, last full paragraph. Thus, the *pending O.A. appears to allege that the device driver 18 in Fig. 1 of Wilkinson constitutes a network device independent module*, as recited in claim 1. To clarify the scope of claim 1, claim 1 has been amended to state that the network device independent module ***is compatible across multiple network devices***.

In contrast to claim 1, the device driver 18 in Fig. 1 of Wilkinson is a third party device driver. As understood by a person of ordinary skill in the art, a device-driver accepts high-level commands, for example from an operating system module, and breaks them into a series of low-level ***device-specific commands that correspond to a particular hardware device being driven***. See generally [http://en.wikipedia.org/wiki/Device\\_driver](http://en.wikipedia.org/wiki/Device_driver) (last accessed June 19, 2009). Accordingly, in Fig. 1 of Wilkinson, the fact that the device driver is a third party device driver indicates that the device driver has been developed for a ***particular piece of third party hardware (e.g., alleged network device)***. In other words, Wilkinson’s device driver 18 is ***tailored to a particular type of network device***, and is ***not compatible across multiple network devices***, as recited in claim 1.

Therefore, Wilkinson does not teach all elements of amended claim 1. Because the other references also fail to disclose a network device independent module as recited in claim 1, the other cited references fail to remedy the shortcomings of Wilkinson. Therefore, because one of ordinary skill in the art would not be motivated to modify the cited references to arrive at the claimed invention, absent impermissible hindsight, the pending O.A. fails to establish all elements of independent claim 1. Claim 1 is therefore believed non-obvious over the cited art, and withdrawal of the rejection is respectfully requested.

V. REJECTION OF CLAIMS 20-25 UNDER 35 U.S.C. § 103(a)

Claims 20-25 were rejected under 35. U.S.C. § 103(a) as being unpatentable over Wilkinson, Black, Lin, Narisi as applied to claims 1, 3, and 7; and further in view of U.S. Pat. No. 5,867,688 Simmon and further in view of U.S. Patent No. 6,892,261 (Ohno). Withdrawal of the rejection is respectfully requested for at least the following reasons.

- i. **None of the cited art teaches converting a virtual memory address into a physical memory address, as recited in claim 20.***

Claim 20 has been amended to clearly require converting a virtual memory address of an array based data structure that reference one or more data buffers that store the packet into a physical memory address.

The pending O.A. alleges that the following excerpt from Black teaches a similar element with regards to previously presented claim 20:

The apparatus of claim 28, wherein the descriptor ring is associated with data of a ***first virtual data path***, the apparatus further including a second descriptor ring that is associated with data being of a ***second virtual data path*** that is different from the first virtual data path.

Black on col. 11, lines 4-8 (emphasis added). As appreciated by one of ordinary skill in the art from reading Black, a virtual data path appears to relate in some manner to how data packets are routed between a source node and destination node of a network. See e.g., Black, col. 3., lines 47-67. Therefore, Black's virtual data paths relate to the network architecture and flow of data through the network. In contrast, claim 20 relates to converting a virtual memory address into a physical memory address, at which data resides in memory. Because Black's teachings do not have any bearing on how physical memory addresses are translated to virtual memory addresses, claim 20 is believed to be patentable over the cited art.

VI. CONCLUSION

For at least the above reasons, the claims currently under consideration are believed to be in condition for allowance.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 50-1733, AMDP755US.

Respectfully submitted,  
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